

REMARKS

Applicant has carefully reviewed the Office Action mailed on July 24, 2008. Applicant respectfully traverses (and do not concede) all rejections, adverse statements, and adverse assertions made by the Examiner. No new matter is added. Claims 33, 35, 38-50, and 53-63 remain pending.

Claim Rejections – 35 U.S.C. § 102

Claims 33, 34, 35, 38, 41-50, 53, and 56-63 are rejected under 35 U.S.C. §102(e) as being anticipated by Gilson et al. (U.S. Patent Application Publication No. 2002/0052626). Please note that claim 34 was previously cancelled. Regarding claims 33, 35, 38, and 41-48, claim 33 recites that the step of coupling the loading tool to the delivery sheath is accomplished by fitting the loading tool over the exterior surface of the delivery sheath. The Examiner indicated that Gilson et al. discloses that “[t]he loading tool (13) fits over the exterior of the delivery sheath (7).” We believe that the Examiner has mischaracterized the art.

“A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987) “The identical invention must be shown in as complete detail as is contained in the ... claim.” *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). (MPEP 2131).

Loading device 7 of Gilson et al. is shown disposed within pod 13 at the distal end 12 of delivery catheter 2. See: Figures 59 and 63, for example, where the loading tube 83 is disposed within the pod 13 at the distal end 12 of delivery catheter 2. Indeed, Gilson indicates that the thin walled loading tube 83 of loading device 7 is positioned within the reception space of the delivery catheter 2. See: Para. [0231]. The Examiner’s characterization is contrary to the method (and apparatus) taught by Gilson et al. which specifically discloses that the apparatus features are opposite the Examiner’s assertion (loading device is 7, not 13 as asserted by Examiner; and delivery sheath is 13, not 7 as asserted by Examiner). See paragraphs [0296] to [0302].

Clearly, the filter member 40 is being drawn through loading device 7 into pod 13. Loading device 7 cannot be characterized as a delivery sheath. Pod 13 (part of delivery catheter 2) is the only feature that could be characterized as a “delivery sheath”. Consequently, Gilson et al. cannot anticipate the step of coupling the loading tool to the delivery sheath by fitting the loading tool over the exterior surface of the delivery sheath.

Additionally, if feature 7 is characterized as the delivery sheath, and feature 13 is the loading tool, as asserted by the Examiner (and not conceded by Applicant), the claimed method steps are not disclosed. As claimed, the loading tool is coupled to the delivery sheath by fitting the loading tool over the exterior surface of the delivery sheath (located at the distal end of the delivery sheath) and the filter is moved toward the proximal end of the loading tool. If the Gilson et al. device is arranged as characterized by the Examiner, the filter would be required to move in the direction opposite that disclosed (see Figures 59-60). To follow the claim language, the filter member 40 would need to move from left to right in the structure shown in Figures 59-60, while Gilson et al. clearly show that the filter member moves from right to left.

Based on these distinctions, Applicant respectfully submits that claim 33 is distinguishable from the cited art. Because claims 35, 38, 41-49 depend from claim 33 they are also patentable over the cited reference for the same reason and because they add significant elements to distinguish them further from the cited reference.

Regarding claims 49-50, 53, and 56-63, claim 49 recites the same distinguishing elements as claim 33. For reasons similar to those set forth above in relation to claim 33, Applicant respectfully submits that these limitations distinguish claim 49, as well as claims 50, 53, and 56-63 depending therefrom, over the cited reference.

Claim Rejections – U.S.C. § 103

Claims 39, 40, 54, and 55 are rejected under 35 U.S.C. §103(a) as being unpatentable over Gilson et al.

“*** “All words in a claim must be considered in judging the patentability of that claim against the prior art.” *In re Wilson*, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970). If an independent claim is nonobvious under 35 U.S.C. 103, then any

claim depending therefrom is nonobvious. *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988).” (MPEP 2143.03).

For the reasons set forth above, Applicant respectfully submits that Gilson et al. fails to teach or suggest all the limitations of claims 33 and 49. Because claims 39-40 and 54-55 depend from claims 33 and 49, respectively, they are also patentable over the cited art for the same reason and because they add significant elements to distinguish them further from the art.

CONCLUSION

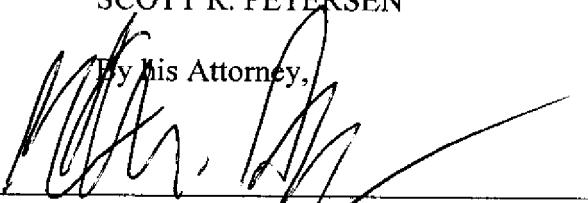
Reexamination and reconsideration are requested. It is respectfully submitted that all pending claims are now in condition for allowance. Issuance of a Notice of Allowance in due course is also respectfully requested. If a telephone conference might be of assistance, please contact the undersigned attorney at (612) 677-9050.

Respectfully submitted,

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By his Attorney,

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